

Accommodating College Students with Learning Disabilities:

ADD, ADHD, and Dyslexia

Melana Zyla Vickers



About the Author

Melana Zyla Vickers, who currently writes editorials on education and other public-policy topics for *USA Today*, has an extensive background in journalism and research. She is a former member of the *USA Today* and *Globe and Mail* editorial boards and a former national security columnist for website TCSDaily.com. She has also served on the editorial boards of the *Asian Wall Street Journal*, the *Far Eastern Economic Review*, and in her career has covered subjects ranging from business and defense to popular culture and foreign affairs. A former senior fellow with the Independent Women’s Forum, Vickers wrote a number of publications for IWF including *Death of the Liberal Arts?* and *Special Report: Women and Islam*. She is a regular contributor to the *Weekly Standard* and National Review Online, and has appeared on the PBS show *Newshour*, CNN, Fox, and other news channels.



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To the Reader

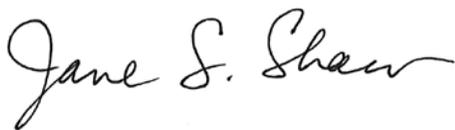
The subject of this paper, the accommodation of college students with modest learning disabilities, is rarely discussed. It operates under a cloak of secrecy, both because of legal privacy rules and because no one on campus wants to appear to criticize the disabled. Yet the number of college students receiving special accommodation is growing dramatically and will soon pose serious questions for universities about whether, or to what extent, such support is appropriate and warranted.

“Accommodating College Students with Learning Disabilities: ADD, ADHD, and Dyslexia,” by Melana Zylar Vickers, reveals the assistance provided for students with learning disabilities so mild that they may not be visible to others. The paper is not about severe disabilities such as autism, brain injuries, or visual or hearing impairment.

The paper is based on interviews with on-campus experts in learning disabilities, with professors who deal with learning-disabled students, and with students themselves. It includes statistics showing the rise in accommodations.

Vickers asks such questions as whether students with such disabilities are being improperly prepared for their future lives, when they will have little or no accommodation; whether accommodation unfairly benefits some but not others; and whether the privacy rules are ultimately harmful to the students themselves.

We believe that this report will encourage more open discussion and careful thought about the role of universities in dealing with these disabilities.



Jane S. Shaw
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Scan an undergraduate lecture hall at any U.S. college or university, and odds are that two out of every 100 students there will have Attention Deficit Disorder (ADD), Attention Deficit Hyperactivity Disorder (ADHD), or another learning disability such as dyslexia. These students are entitled to ask for special academic treatment under federal disability law. Such “accommodation” can include extra time to take exams, alternative exam formats such as oral or take-home, and classroom assistance such as the help of a note taker.

In the last decade, the proportion of undergraduates designated as learning disabled (LD) or as having ADD/ADHD has almost doubled, to reach more than 2 percent of the total U.S. undergraduate population, or 394,500 students.¹ These figures do not include those disabled by mental retardation, autism, brain injuries, and other severe conditions, which are not considered in this paper. At colleges and universities that attract more affluent students, the numbers of LD and ADD/ADHD are even higher as a percentage of undergraduates. Most of the LD and ADD/ADHD (hereafter shortened to ADD) students are white males.

It would be natural for legally mandated special treatment of the LD and ADD students to rise along with their numbers. But the special treatment appears to be rising even more rapidly than the number of students. On at least one North Carolina campus, the University of North Carolina at Chapel Hill, the number of LD and ADD students seeking eligibility for accommodations has almost doubled since 2002 and has grown eightfold since the 1980s. What’s more, the rate of growth is still accelerating.

The diagnosis and accommodation of cognitive disabilities have helped some students a great deal. Students who in the past were unable to perform well now have the opportunity to achieve their true potential. Yet the

accommodation of LD and ADD college students is becoming controversial, because neither all the diagnoses, nor all the accommodations, are perceived as legitimate. Some professors have spoken out against accommodating students whose condition doesn’t warrant the special treatment, and many others have complained privately about the power and secrecy of the disabilities offices that decide whether students are to be accommodated.

The American Association of University Professors (AAUP) has published calls for reform.² Organizations that administer national, standardized entrance exams such as the College Board have been criticized in the media and by scholars for their accommodation policies.³ And as the news reports of well-to-do students obtaining unwarranted LD or ADD diagnoses for the sole purpose of obtaining academic accommodations multiply, other students are likely to speak out against the practice.

The issue will gain new attention in the next few months, when the U.S. District Court for the Western Division of Kentucky will reconsider a case called *Jenkins v. National Board of Medical Examiners*. The case involves a medical student (Jenkins) with a reading disability who has received accommodations on exams in his past schooling and now seeks accommodations, including extra time, on his medical school exams. A lower court denied the accommodations, but a federal appeals court in February ordered the court to reconsider its decision and to re-evaluate whether the student is disabled under new, looser definitions of learning disability signed into law in the autumn of 2008 as amendments to the Americans with Disabilities Act.

If the lower court reverses itself, accommodations in colleges nationwide are likely to expand. There is, however, an “out.” Postsecondary institutions may seek exemptions under the new amendments to the Americans with

Disabilities Act. Besides redefining disability more loosely, the amendments state that postsecondary institutions may be exempted from the new language if they can show that it would cause them to fundamentally alter the nature of the academic services involved. Such an exemption could keep schools from having to accommodate students under the new standards. Even so, some professors see the current accommodations as an infringement on their freedom to set academic standards for their students.

For now, these legal battles and the broader controversy over accommodations are in the nascent stage—a canary in the coal mine of campus politics. But as the population with a high proportion of ADD and LD continues to enter college, and as diagnoses rise, this issue is guaranteed to grow. Indeed, it will follow this demographic group into graduate school and into the workplace as well.

In 2006, fully 5.6 percent of all Americans aged 3-21 and enrolled in public education (preschool through high school) were diagnosed with LD or ADD...

This paper will review the controversy over ADD and LD accommodations and suggest how schools might better address this growing problem. Until now, the issue has had a low profile, both because of federal laws that keep the details of a student's accommodation private and because faculty members have avoided discussing a problem affecting disabled students for fear of being viewed as politically incorrect. Indeed, few faculty members were willing to be interviewed on the record for this paper.

While the issue is a national one, the examples in this paper are taken primarily from the state of North Carolina.

Background

No other disability has seen as dramatic a rise in numbers of diagnoses in recent decades as have LD and ADD. In 2006, fully 5.6 percent of all Americans aged 3–21 and enrolled in public education (preschool through high school) were diagnosed with LD or ADD, up from 3.6 percent of

that population in 1981. By contrast, the proportion of Americans aged 3–21 with hearing, visual, orthopedic, and other impairments has stayed steady over the same period, at about 0.1 percent apiece. Speech and language impairments rose slightly from 2.9 percent to 3 percent, and mental retardation has been cut in half from 2 percent to 1 percent of this population. Autism has grown to 0.5 percent of this school-age population, up from 0.1 percent in 1995–96, the first year it was measured.⁴

The National Institutes of Health (NIH) define ADD/ADHD as a disorder whose symptoms include difficulty in staying focused and paying attention, difficulty in controlling behavior, and hyperactivity.⁵ NIH defines learning disabilities, including dyslexia, as disorders that affect the ability to understand or use spoken or written language, do mathematical calculations, coordinate movements, or direct attention. School-aged children are diagnosed with these disorders by licensed psychologists or doctors who use as their guide the *Diagnostic and Statistical Manual of Mental Disorders* of the American Psychiatric Association.⁶

To the lay person, it would seem that several of the disabilities, often termed disorders, are vaguely defined. Consider the definition of “315.9 Learning Disorder Not Otherwise Specified”:

This category is for disorders in learning that do not meet criteria for any specific Learning Disorder. This category might include problems in all three areas (reading, mathematics, written expression) that together significantly interfere with academic achievement even though performance on tests measuring each individual skill is not substantially below that expected given the person's chronological age, measured intelligence, and age-appropriate education.⁷

Since there is no single test to determine whether a child has such a disorder, there can be—and there is—great variance in the diagnoses from specialist to specialist and from demographic group to demographic group.

The LD and ADD diagnoses are not randomly distributed, either in the school-age population or in the postsecondary population. An undergraduate student with ADD or LD is exponentially more likely to be white, male, and from a family with high income and college-educated parents, than female, nonwhite, or with parents with lower income or level of education. There are no recorded Asian undergraduates disabled by ADD, and only 0.7 percent of Asian students have a learning disability, according to government data.

Only 1.6 percent of disabled Latinos are disabled by ADD, 5.8 percent by learning disabilities, or 7.4 percent in total. In contrast, white undergraduates with ADD represent 7.7 percent of the white disabled population, and 5.8 percent of the LD population. For black, disabled undergraduates, the numbers are 3.8 percent ADD, and 1.2 percent LD.⁸

The diagnosis numbers suggest several possibilities. For one, white male undergraduates from upper-income, high-education families may be disproportionately afflicted by ADD and LD. Alternatively, they may be overdiagnosed. Other possibilities are that non-whites and lower-income, lower-educated undergraduates are under-diagnosed or that they are not predisposed to ADD and LD. Whatever the case, the unevenness of the distribution of the diagnosis—and thus of accommodations that can be acquired with the diagnosis—adds contentiousness in an area of mental health that has seen a high degree of controversy in recent years.

Indeed, the white, wealthy, male imbalance in LD and ADD diagnoses is so stark that the diagnosis has a nickname among campus disabilities experts: “We call it Wonderbread. It is an expensive white bread you buy at the store,” says Jim Kessler, director of disability services at UNC-Chapel Hill.⁹ While noting this label, Kessler goes on to stress that he doesn’t believe this white, high-income population is being overserved by offices such as his.

Regional distinctions in the proportions of ADD and LD diagnoses are evident as well. The disabled undergraduate population in New England colleges and universities is 22.8 percent LD or ADD. By contrast, in the Plains region, it is 15.1 percent.¹⁰ The variations aren’t huge, but they raise questions about the reliability of the diagnoses.

The National Association of School Psychologists (NASP), a membership-based group that conducts training and provides advocacy for the profession, puts the LD and ADD numbers on campus even higher. By this group’s measurement, within the disabled first-year student population, specific learning disabilities (dyslexia and other reading, math, and language disorders separate from ADD, but which ADD students may also have) now account for 40.4 percent of the disabled population, up from 16.1 percent of that population in 1988. The NASP study notes that some groups of students may not be aware that it’s up to them to report their need for special services—suggesting, in effect, that the numbers of learning-disabled students may be higher still.

Alongside the growth in specific learning disability and ADD diagnoses has been a rise in prescription medications for ADD/ADHD, such as Ritalin and Adderall. Medication use has risen 40 percent in the past five years alone, to 39.5 million individual prescriptions in 2008.¹² While it’s not known how many undergraduates with ADD/ADHD are on medication, it is known that over half of male schoolchildren with ADD/ADHD in K-12 are on medication for the disorder.

To what can the rise in ADD and LD diagnoses be attributed? For one thing, it has accompanied the psychology profession’s increased focus on learning-related issues and psychology manuals’ widening of definitions to include under the rubric of disorders a greater range of learning styles and difficulties, which change or expand with each new edition of the profession’s principal manual, the *Diagnostic and Statistical Manual of Mental Disorders*, now in its fourth edition. That focus has followed changes in federal law that have allowed wider definitions of disability than in the past.

Perhaps the biggest changes driving the diagnoses were the Americans with Disabilities Act of 1990 (ADA), the Individuals with Disabilities Education Improvement Act of 1997 (IDEA), and its reauthorization and revision in 2004. Along with the Rehabilitation Act of 1973, these federal laws mandate that disabled students from age 3 to 21 (but to a lesser degree college-age) must be provided with services, monitoring, assessment, and other aspects of treatment in publicly funded education. By mandating services and treatment, the laws have driven up the number of school mental health professionals and raised the level of awareness of teachers. Many actively seek to identify and assist students who they suspect should have their learning abilities assessed.

The rise in LD and ADD diagnoses has stirred controversy. One reason is evidence that some diagnoses are illegitimate. Various news organizations including *ABC News* and *USA Today* have reported that for a price it’s possible to secure an illegitimate ADD diagnosis in order to obtain academic advantage.¹³ Scholarly journals have also studied the topic of what one termed the “undesirable incentives to seek diagnosis”—in order to obtain extra time for taking exams, for instance.¹⁴ A psychologist in California advertises his diagnostic services online at testaccommodations.com, with his principal message being that an ADD or LD diagnosis can provide extra time for testing for the SAT as well as professional programs such as medical school or law school.

Further proof of illegitimate accommodations and diagnoses comes from the College Board, which administers the SAT and offers extra time on its SAT to LD and ADD students. It states the existence of abuses as a fact and has accused students, parents, and professionals of impropriety on this front. The College Board report, *The Impact of Flagging on the Admission Process: Policies, Practices, and Implications*, notes: “There is some manipulation of the admission and testing systems. Students who abuse the process are actually hurting more than helping themselves. Some parents seek what is perceived as an advantage for their children. Some professionals are contributing to the abuse by writing suspicious documentation.”¹⁵

The director of disability services at UNC-Chapel Hill, Jim Kessler, says that “oh yes, you can” buy an LD diagnosis, and that one can therefore buy accommodations as well. He adds, however, that it would require “a lot of work” for an otherwise nonqualifying student to buy the diagnosis and the accommodation, and that those who do it are “going to be such a small, small group of people.” He says that this concern is tiny in the greater scheme of issues facing the disabled and that professors or other observers who are concerned about such illegitimate accommodations “need to get a life.”¹⁶

How to Obtain Accommodations

To obtain accommodations, students must apply to college disabilities offices. To use typical language from a disabilities office website, an LD or ADD student may request accommodations to “overcome limitations that keep him or her from meeting the demands of college or university life.”¹⁷

Such accommodations can include providing note takers or scribes who write what the student dictates, converting textbooks or course packs into accessible mediums such as audio recordings, giving extended time on tests, alternative forms of tests (i.e., using scribes, tape recorders, computers, or oral administration of the test) or alternative locations for tests (such as a quiet room for one person), a lessened load of courses while having full-time status, and course substitutions.

In order to qualify for such accommodations, the student must provide the college’s disabilities services office with evidence of the disability and how it limits the student. The University of North Carolina-Chapel Hill requires a “description of *current substantial limitations* as they

relate to meeting the various demands of University life” and a documented discussion (typically from a medical professional and a school professional) of academic achievement in the last two to three years and how it has been affected by the disability.¹⁸

College disabilities websites typically make clear that the threshold for special treatment in college is higher than it was in elementary and high school, and that accommodations aren’t automatic for students who had received them in K-12. The UNC-Chapel Hill site notes that the medical documentation must address the student’s current level of functioning. Having had IEPs (Individualized Education Plans, mandated by law for disabled students in grade school), 504 Plans (mandated by the Rehabilitation Act of 1973), and Summary of Performance plans (which discuss the student’s readiness for postsecondary education, and are described in the IDEA Act of 2004), provides historical evidence of accommodations but these are generally not considered sufficient to make a student eligible for services. The site notes that every student will be evaluated on a case-by-case basis.

The student identifies himself or herself to the disabilities office voluntarily, then follows up with the documentation. A single administrator or a committee then decides if the student can qualify for disability services. If so, a disabilities expert meets with the student to determine what services, including accommodations, are warranted. The office then sends the student’s relevant professor(s) a note on the need for the accommodation on such-and-such a date or over such-and-such a period. The paperwork does not describe the disability, only the requirement for accommodation.¹⁹

Of all disabled students on a campus (orthopedically disabled, vision-impaired, hearing-impaired, depressed, etc.) statistics show that the LD and ADD students are the most likely to receive disability-related services. Nationally, 51.1 percent of LD and ADD students receive services (most likely accommodations) on campus, compared with 19 percent of mobility-impaired students, and 22 percent of visually or hearing-impaired students.²⁰

These data suggest several things. First, the ADD and LD population is more inclined than any other disabled group to request special services and also to receive them. The reason may be that the adjustments made for, say, physically or visually impaired populations—ramps, Braille signs, and the like—exist as permanent structures whose presence doesn’t need to be requested by a

The proportion of North Carolina high school seniors taking the SAT and claiming a disability—a claim that is required in order to get extra time on the SAT—has grown 40 percent since 1998.

disabled group; they're part of the campus universal design. By contrast, the academic accommodations have to be requested student-by-student.

At UNC-Chapel Hill, the number of LD and ADD students applying to be eligible for accommodations has grown a phenomenal 766 percent since 1990, according to data provided by the Office of Learning Disabilities Services.²¹ In 2008–09, 433 students were registered with the services office, up from 50 or fewer in 1990. The numbers have almost doubled since 2002–03, the first year for which the office has precise data rather than estimates.

Another measure of the rise in accommodations is the fact that last year the disability services office at UNC-Chapel Hill administered 2,200 exams, almost all for undergraduates.²² At least 80 percent were for LD or ADD students. The disability services director estimates that that number “has probably doubled” in the last decade.

The trend toward greater accommodation is evident statewide in the growing number of North Carolina high school seniors who seek accommodations on the Scholastic Aptitude Test (SAT). The proportion of North Carolina high school seniors taking the SAT and claiming a disability—a claim that is required in order to get extra time on the SAT—has grown 40 percent since 1998.²³ According to the College Board, which administers the SAT, fully 6.6 percent of North Carolina test-taking seniors claimed a disability in 2008, up from 4.7 percent in 1998.²⁴

The accommodations at UNC-Chapel Hill and within North Carolina may be rising more quickly than accommodations granted nationwide. Nationally, the proportion of high school seniors declaring disabilities to the College Board rose 20 percent between 1996 and 2008 and now covers 5.3 percent of the test-taking population (compared with 6.6 percent in North Carolina).²⁵ The SAT data provide the only readily available national picture, because the U.S. Department of Education has not published data on accommodations granted over the years.

The Rules for Higher Education

Because of the different federal laws under which colleges and K-12 schools operate, some students who were eligible for accommodations/special treatment and services in K-12, and even when taking their SAT exam, find that they are not eligible for accommodations or services in college. Postsecondary institutions are not governed by the Individuals with Disabilities Education Improvement Act of 2004, which mandates services and intervention for students with special needs and disabilities in K-12 education.

Rather, higher education is governed by Section 504 of the Rehabilitation Act of 1973 and also the Americans with Disabilities Act. These are civil rights statutes, as opposed to education statutes, requiring that all postsecondary institutions make reasonable and necessary modifications

More Students Seek Eligibility for Accommodations at UNC-Chapel Hill

	Total	LD (%)	ADD (%)	Both (%)	Other (moderate) disability (%)
2008-09	433	38	23	35	2
2007-08	429	26	37	35	2
2006-07	379	26	34	30	-
2005-06	328	23	40	33	-
2004-05	320	36	28	36	-
2003-04	260	36	40	24	-
2002-03	286	32	42	20	-

Source: University of North Carolina-Chapel Hill Office of Learning Disabilities Services

to rules, policies, and practices to prevent discrimination and ensure access and opportunity for students with disabilities. “Equal access and opportunity” means the same access and opportunity available to the general population. Disability is defined under the ADA as “a physical or mental impairment that substantially limits one or more of the major life activities of such individual” who is disabled.²⁶

The requirement for “equal access and opportunity” is more uncertain and difficult to put into practice with respect to academic services than with, say, getting a physically disabled student to the second story of a building or to view a film. Until the ADA was amended in 2008, the threshold for providing accommodation for LD or ADD was that the student must prove not only that the disability exists but also that the disability prevents functioning in a given academic setting (say, a lecture, lab, or exam) at a level equal to that of the general population.²⁷

Some campuses appear more willing to grant accommodations than others. UNC-Chapel Hill turned down only one applicant for disability services, including accommodations, last year.²⁸ By contrast, the University of North Alabama turns down half its applicants for disability services, according to an estimate by David Cope.²⁹ If more data were available on accommodations at various colleges, their differing rates of refusal would be easier to measure.

The difference from one college to the next also has to do with the different application processes. As noted, UNC-Chapel Hill has a committee that reviews the initial applications for services, but the decision whether to grant an accommodation is made by an individual disabilities expert.³⁰ Other North Carolina colleges use individual administrators, not committees, to review disabilities cases.

Leaving the decision to a single administrator is the prevailing practice across the country. Yet that is where some of the trouble begins. A 2007 report by a coalition of LD and ADD advocacy groups and mental health professionals found that the disability experts in these offices do not always apply a consistent or legally rigorous standard in judging eligibility for accommodations. The report from the National Joint Committee on Learning Disabilities says that:

at the postsecondary level, there is a lack of uniformity in determining whether an individual is eligible as a person with a disability and in identifying needed supplemental services and accommodations for access. There are no consistent or agreed upon

Disability is defined under the ADA as “a physical or mental impairment that substantially limits one or more of the major life activities of such individual” who is disabled.

principles related to interpretation of data and information to determine student eligibility, access to services, and appropriate accommodations.³¹

This report, *The Documentation Disconnect for Students with Learning Disabilities: Improving Access to Postsecondary Disability Services*, also notes that “[s]econdary and postsecondary institutions differ in their programs and expectations ...[and] educational decisions are made by postsecondary personnel with varying qualifications.”³²

This author found two postsecondary institutions where initial requests for accommodations are considered by a committee of administrators and professors, rather than individuals. These are Rutgers University in New Jersey and the University of North Alabama (UNA). At UNA, students must show evidence, based on the discrepancy between their record in course grades and standardized school tests and an intelligence test (such as the WISC or the Stanford-Binet), that they are substantially limited in their ability to learn compared to the average person in the general population.

Among the kinds of documentation sought is evidence that the applicant’s level of intelligence and level of academic achievement are several standard deviations apart. This “discrepancy model” type of documentation demonstrates that the applicant’s ability to achieve the level of academic performance typically associated with his or her level of intelligence would be impaired if the applicant’s disability were not accommodated.³³ Approximately half of the applications for accommodations at UNA are turned away, according to David Cope, a member of the committee, at least partly because their discrepancies are insufficiently large.

At Rutgers, four committees review documentation submitted with requests for accommodation. There is a special LD/ADD committee, as well as a separate Psychological Concerns committee, and two others related to other disabilities. The committees review a student's documentation, which, according to the Rutgers website, includes current academic test scores and aptitude test scores, thus providing the "discrepancy" evidence that UNA seeks as well.

The Rutgers committees were formed partly because a 2005 audit of Rutgers accommodations process suggested that a committee decision process would have greater legitimacy than decisions made by individuals.³⁴ Rutgers did not provide this author with data on its rates of acceptance or refusal, but the Disabilities Services director did note that they serve about 1,200 students, "a significant increase over just four years ago."³⁵

It would seem that a strict committee process similar to the one Rutgers or UNA have would protect decisions about accommodation from being seen as too lax, unreasonably strict, or otherwise unfair. On the majority of campuses where individuals, not committees, decide whether to grant accommodations, there remains concern about their fairness and legitimacy. Transparent, committee-based processes would ensure greater uniformity in decision making. A committee process would also provide a sturdier base from which to defend a decision to refuse a request for accommodation, if the refusal were appealed.

Faculty Views of Accommodation

For the most part, professors accept and cooperate with the accommodations system, this author's interviews suggest. Indeed, UNC-Chapel Hill disabilities administrators could think of only a handful of cases in the last two decades where professors disputed an accommodations request. The coordinator of UNC-Chapel Hill's Academic Success Program for Students with LD and ADHD, Theresa Maitland, explains that "[i]t's very rare to meet someone who isn't cooperative because in today's world these disabilities touch everyone. Often these professors have children or a grandchild who has these conditions, or they may have them themselves."³⁶

The experience of UNC-Chapel Hill history professor Richard Kohn is consistent with that assessment: In his 18 years at UNC, Kohn has found the staff of the disabilities services offices "reasonable in their recommendations, requirements, and behavior."³⁷ He says that the offices "have extraordinary

power, or at least used to: they can and probably occasionally do compel faculty to abide by their ruling." But he adds that "the bother to us faculty is truly minor."

But whether professors' cooperation comes about because all professors agree with an institution's LD and ADD accommodations policy or because some choose not to oppose it publicly for fear of the consequences of their opposition is far less clear.

A 2008 survey of 192 professors at a large Midwestern university on the subject of accommodations for LD students shows that some professors are ambivalent about whether testing and other accommodations of LD students are fair to students without accommodations. Male professors rated the fairness of accommodations an average 3.98 on a scale of 1–5, where 5 is "strongly agree" that accommodations are fair. Female professors rated fairness at an average 4.32. Moreover, both male and female professors were somewhat unwilling to provide major accommodations to students, including extra credit assignments, fewer assignments, reduced reading, or a different grading curve. Male and female professors were somewhat willing to provide test accommodations, the survey showed.³⁸

This author's interviews found similar results, albeit from a smaller sample. Few professors interviewed by this author were willing to have their names associated with criticism of the accommodations system, or even to be quoted anonymously on the subject. The criticism itself was forthcoming, however. Faculty members said that they thought that criticism of current accommodation practices was widely shared but unlikely to surface publicly. In the prevailing inclusive and egalitarian context of most colleges, their colleagues would want to avoid being associated with a position that may be construed as being anti-disabled. Several professors also noted that disabilities services offices are very powerful and that when the professors had had occasion to choose between trying to oppose their decisions or backing down, they had chosen simply to back down.

The role faculty members play in the accommodations process is one of implementation, not of judging the validity of the request. Their role is to agree to give the student the extra exam time or other accommodation, produce an exam several days early and submit it to the disabilities office, or prepare written lecture notes for the student, and the like.

To illustrate with a typical example involving exams, a student whose request for an accommodation has been

granted by the disabilities office takes a paper form to his or her professor and requests extra time on an exam or a noise-free exam room, or, in the case of UNC-Chapel Hill, has a letter from the disabilities office e-mailed directly to the professor. The professor signs the paperwork, and then must plan accordingly. The professor must prepare a copy of the exam several days early to be sent to the disabilities office. Then, the student may start the exam, say, two hours earlier than the rest of the class, isolated from the other students so as not to share the exam's contents to those who are starting at the scheduled exam time. Or, if the accommodation relates to distractibility, the student may start at the scheduled exam time but in a noise-free room. Other requests might include giving a disabled student advance notice of a pop quiz, providing extra time for submitting assignments, or submitting written lecture notes for the student.³⁹

It's easy to see how such requests might raise concerns among professors about cheating. UNC-Chapel Hill's Kessler recounts that one student's accommodation, which allowed the student to take an exam home to complete, led to questions about whether the student would cheat. Also, professors noted in interviews that when accommodated students don't begin the exam at the same time as the remaining students, or are not sequestered for the full duration of the other students' exam, they fear that the student could compromise its contents.

Other concerns were more minor, including the fact that sometimes professors must respond to students who bring in their accommodations forms a day or two before the accommodation is needed, requiring a scramble to produce an exam at the required deadline. It was also noted that students overall, in recent years, appear to have a sense of entitlement—albeit expressed politely—that students in the past did not.

One of the few professors who have expressed publicly his and other faculty members' more substantive concerns about accommodations is David Cope, a mathematics professor at the University of North Alabama. His paper, *Disability Law and Your Classroom*, which argued for reforming the decision process for granting accommodations, was published by the American Association of University Professors in 2005. The paper attracted attention from many faculty members, and at least one prominent disabilities advocacy group wrote a letter criticizing the piece. Despite such opposition, Cope persuaded his university to change its process of granting accommodations to make it more transparent and to

make it adhere more closely to the legal standards of the Americans with Disabilities Act.

Among professors' concerns, as outlined by Cope in his paper (and in interviews with the author), are the following:

- pressure by disabilities offices to grant accommodations that professors consider excessive;
- lack of sufficient clinical documentation to warrant the accommodations;
- abuse of the unilateral authority of the disabilities offices to interpret federal law;
- failure of disabilities offices to keep up with the case law and current legal interpretations of the federal law on accommodations; and
- difficulty resolving the conflict between professors' desire to provide legally necessary accommodations to their disabled students while treating all students fairly, especially when evaluating student performance.

Cope says that before his college reformed its system for evaluating accommodation requests, "many of our faculty were harassed by [disabilities services] about granting accommodations that they felt were excessive."⁴⁰ He sums up the criticism this way: "Providing [a special] testing environment to a student with a relatively mild impairment raises a serious question for many faculty members: Are we realistically preparing such students for careers...where their work environment routinely will require them to process information and to exercise professional judgment in a setting filled with distractions?"⁴¹

A final aspect of accommodations that raises concerns among professors is the accommodation's secrecy, or the accommodated student's right to privacy. For a start, under the federal Family Educational Rights and Privacy Act of 1974, the student's type of disability is kept secret from the professor and is not noted on the accommodations paperwork. Theoretically, a professor could request that the disabilities office supply more information about the student's disability—for example, by sharing the educational and medical documentation supporting the student's request for accommodations. The professor could do this on the grounds that he or she has a "legitimate educational interest" in understanding the disability's effects, according to an interpretation of the law provided by the U.S. Department of Education after some confusion was reported. But the department adds that a university

or college would be free to deny such requests by having a policy against them.⁴²

Some professors chafe at this secrecy, objecting to changing their academic standards for one student in response to an assertion that is backed by secret evidence known only to the disabilities office, and not by verifiable fact. (Other professors said they have no interest in knowing about the student's condition, because they have no qualifications for assessing it.)

The wider problem with the secrecy surrounding the student's disability, however, is that professors must in turn keep the accommodation secret as well. Richard L. Stroup, an economics professor at North Carolina State University in Raleigh, says that professors are told by the disabilities

unfair. Such reforms wouldn't address all the controversy surrounding accommodations, however. Legal issues, questions about legitimacy of the diagnoses, as well as students' questions about fairness, would remain.

Legal Questions

One can't blame disabilities offices or faculty members for the confusion surrounding the question of how much LD and ADD students ought to be accommodated in order to comply with the ADA and Section 504 of the Rehabilitation Act. The issue is very much alive in the court system, and courts differ on the most central points. What's more, amendments to the ADA and other federal legal changes have led to a broadening of the definition of disability, with consequences in higher education.

“...Are we realistically preparing such students for careers...where their work environment routinely will require them to process information and to exercise professional judgment in a setting filled with distractions?”

office not to discuss accommodations with anyone. He and other professors interpret that to mean that if someone asks for an assessment of the student—in the form of a graduate school or job recommendation, for instance—the professor is obligated to withhold the information that the student had, say, twice as much time on exams as other students did. Stroup questions the propriety of drawing a professor into that sort of evasion. He also says that the accommodations process may not ultimately be beneficial to disabled students, because they acquire a false sense that they will be accommodated in the workplace, for instance by being given extra time to complete a task that is time-sensitive.⁴³

To be sure, a more open process for granting accommodations won't address all professors' concerns. But a review of accommodations policies could lead to explicit policy changes that would address the sense some professors have that they are being required to mislead third parties on the student's behalf. In addition, a committee system for granting accommodations in which professors could participate would tamp down the latent criticism that the accommodations process can be

“FLAGGING”

Consider just these two areas where the courts have weighed in and influenced how accommodations are dealt with. A lawsuit by a physically disabled student (who was born without hands) seeking extra time on the Graduate Management Admission Test led the College Board in 2002 to stop revealing to colleges whether an applicant had received extra time on his SAT or other standardized test because of a disability.⁴⁴ The student had objected to the College Board's practice of “flagging” the scores of tests whose test-takers had been given extra time. The College Board said that its decision to drop “flagging” was done to expand access for the disabled, but the timing suggests it also served to ward off further lawsuits.

Ever since the removal of flagging on the SAT, its competitor ACT, and a variety of professional program entrance exams, secrecy and privacy have become the norm in accommodations policy in postsecondary education. Not only do faculty not know much about student disabilities because of privacy laws, but student records don't reveal student disabilities either, the way they used to with flagging. The implications of this secrecy as students move

into the workforce are worth considering but are beyond the scope of this paper.

ADA AMENDMENTS

A second legal development is likely to have a great influence as well. In the fall of 2008, Congress amended the Americans with Disabilities Act, lowering the standard for assessing whether a person is “substantially limited in performing a major life activity” (to use ADA language), and therefore disabled. Congress’s amendment, signed into law by President George W. Bush, states that its purpose is “to reject the standards enunciated by the Supreme Court in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams...* (2002).” Specifically, Congress rejected the finding that

the terms “substantially” and “major” in the definition of disability under the ADA “need to be interpreted strictly to create a **demanding** standard for qualifying as disabled,” and that to be substantially limited in performing a major life activity under the ADA “an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people’s daily lives.”⁴⁵

In practice, this change has significantly lowered the threshold for accommodation. According to a soon-to-be-published monograph by Stanley Shaw, co-director and senior research scholar at the Center on Postsecondary Education and Disability at the University of Connecticut, this means that the “strict interpretation of a substantial impairment has been broadened and now includes a more expansive definition of major life activities requirement [and] now becomes a very broad and liberal threshold requirement.”⁴⁶ In an email, Shaw said that “the new ADA definition of disability is so broad that most anyone can be identified as disabled.”⁴⁷

As if that language in the amendment weren’t enough to keep lawyers at postsecondary institutions busy, the amendment also states that “reasonable modifications in policies, practices, or procedures shall be required” to comply with its language—with a key exception. That exception occurs when “an entity can demonstrate that making such modifications in policies, practices, or procedures, including academic requirements in postsecondary education, would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations involved.”⁴⁸

In other words, colleges and universities may be exempt from the new, looser definition of disability if they can show that applying it would alter the nature of their academic program and standards. Certainly, some professors might argue that the looser definition would indeed affect their academic freedom to assess their students fairly and according to their existing standards.

Interestingly, the National School Boards Association, composed of state associations of public school boards, lobbied (unsuccessfully) to have public schools included in that loophole for postsecondary institutions. Writing to the Senate Education Committee, the association said that “the new definitions of disability...would trigger an increase [sic] number of students who have minor or corrected conditions to claim Section 504 eligibility. This would incur additional costs to school districts that would not be able to be absorbed.”⁴⁹ The association foresees increases in eligibility for services related to LD and ADD as a consequence of this amendment. Time will tell to what extent postsecondary institutions have to modify their current standards to accommodate the new, looser definition, and to what extent they will face the increases in eligibility and costs that the K-12 schools now foresee.

Federal courts will take their first pass at the amended ADA in relation to accommodations in the next few months, when the U.S. District Court for the Western Division of Kentucky reconsiders a case called *Jenkins v. National Board of Medical Examiners*. The case involves a medical student (Jenkins) with a reading disability who has received accommodations on exams in his past schooling and now seeks accommodations/extra time on his medical licensing exams.⁵⁰

When the district court first considered the case, it relied on a Supreme Court decision that used the definitions of disability under the ADA before the law was amended in 2008, and the court concluded that Jenkins’s disabilities did not prevent him from performing activities “central to most people’s daily lives.”⁵¹ Because of the 2008 amendments to the ADA law, the U.S. Court of Appeals for the Sixth Circuit remanded the decision to the district court in February 2009. According to the appeals court, “if the district court in this case finds that Jenkins is disabled under the more inclusive terms of the amended ADA, the court must still determine specifically what (the National Board of Medical Examiners) must do to comply with the requirement that a professional licensing board offer its examination ‘in a place and manner accessible to persons with disabilities.’”⁵²

...colleges and universities may be exempt from the new, looser definition of disability if they can show that applying it would alter the nature of their academic program and standards.

Postsecondary institutions are sure to pay close attention to the ruling, as its interpretation of the amended ADA could lead to an increase in the number of students who must receive accommodations for LD and ADD, as well as other disabilities. Unless the institutions successfully use the loophole provided by the amended ADA, this legal trend may facilitate more eligibility for accommodations in college and university and bring with it associated costs in terms of personnel needed to administer the requests, faculty time in providing the additional required materials, and legal work required to comply with the new standards. At a time when both education budgets and budgets for disabilities programs are being cut by state governments, it's difficult to see how the changes to accommodations policy mandated by new federal law can be implemented with any ease.⁵³

Fairness Questions

Disabilities services experts on campus recognize that there is a risk that the accommodations they offer may be perceived by non-disabled students as unfair, particularly if the accommodations are granted too freely or subjectively, or if the requests come from students who are improperly qualified for them. The website of the disabilities services office at the University of Mississippi has gone so far as to post an article saying that over-accommodation of students who aren't entitled to them "may contribute to prejudices, lower academic standards, and fuel backlash by students and faculty that cannot be easily dispelled."⁵⁴ In addition, at least one federal appeals court decision about the accommodation of a disabled student, *McGregor v. Louisiana State University Board of Supervisors*, discusses the risk of student backlash about unfairness in accommodations and stresses the need for institutions

of higher education, which are competitive in their nature, to "impose academic standards that are not only fair, but that students perceive to be fair."⁵⁵ In addition, a variety of disabilities and education experts have discussed the risk of a student backlash in scholarly publications.⁵⁶

That said, this author was unable to find students who were willing to talk about the fairness issue for this study. It would seem unlikely that the reason for the silence is full agreement with the policies. The director of disability services at UNC-Chapel Hill, Jim Kessler, said he hadn't heard of any overt student backlash against accommodations and attributed that to the fact that the accommodations such as extra time for exams are arranged privately, without other students knowing about them. He did note, though, that disabled students who do not participate in exams with the rest of the class face the risk of being asked by fellow students about their perennial absence during tests.⁵⁷

Kessler noted that there was public controversy on campus several years ago over one type of accommodation: priority registration, which allows selected students to register before others do. Although some disabled students do receive priority registration, the criticism had been largely directed at some athletes with priority registration. Those registration rules have been changed, Kessler said.

One can see how controversy could arise over the demographic imbalance in ADD and LD diagnoses—as indicated earlier, the preponderance of these diagnoses are for white males from high-income families. Some minority and economically disadvantaged students may be entitled to disabilities diagnoses but don't receive them, either because their high schools didn't offer them the services that would have led to their diagnosis or because their parents couldn't afford private diagnoses or weren't aware of the issue to begin with. Thus, they might perceive the demographic imbalance as unfair. It's also worth recalling here that experts ranging from the UNC-Chapel Hill disability services director to administrators at the College Board say that students can and do buy diagnoses and accommodations.

Having recognized the socioeconomic imbalance, UNC-Chapel Hill's Disability Services Office has in recent years begun to offer financial assistance for low-income students to see a clinician who can determine whether they have a disability for which they might receive accommodation. Not all North Carolina campuses subsidize ADD or LD diagnoses for low-income students.

Recommendations and Conclusion

Learning disabilities and ADD are an important issue in campus life, if only because of the growing number of students diagnosed with these disabilities. The accommodation of these students through extra time on exams and other such provisions is increasing. Yet it is not widely discussed in public, for a variety of reasons including fear of being seen as anti-disabled.

But the issue is evoking controversy. As newspaper reports, scholarly publications, legal battles, and a handful of writings by professors imply, not everyone is in agreement about the degree to which LD and ADD students are accommodated, or should be accommodated, in higher education.

The controversy won't end anytime soon—indeed, there's a high probability it will grow if a less stringent disabilities law and upcoming legal decisions trigger more LD and ADD accommodations on campuses. Meanwhile, well-meaning administrators will be caught between a desire to serve the genuine needs of their disabled students and the need to avoid unfairness by granting accommodations to students who don't really deserve them.

At the very least or as an initial step, administrators should take the lead of the University of North Alabama and Rutgers and open up their accommodations processes for closer scrutiny. They should include faculty members on panels that consider initial applications for accommodations—not just for appeals—so that legitimate concerns about academic quality and fairness can be addressed. Schools should have strict standards for determining eligibility and produce data on the numbers of accommodations granted, refused, and appealed per year.

Reporting on the numbers of requests for accommodation that are granted will reveal inconsistencies in ADA enforcement across campuses. It will also force openness on the subject while preserving the individual privacy of disabled students. It's surprising that the federal government doesn't require such reporting already.

A radical alternative would be to open up the accommodations to every student, where practicable. The idea has been floated among some testing and disabilities experts recently.⁵⁸ It would follow the principle—attractive among disabilities experts—of universal design. For example, postsecondary institutions could let all students decide whether to have extra time (time-and-a-half, or double-time, say) on an exam, but make their extra time

publicly known by flagging it on their grade reports. Thus, disabled students would have equal opportunity to do well on exams and would be able to avail themselves of accommodations without having to go through the ordeal of applying for them and being accepted or rejected. And other students who want the extra time could have it just by asking. This might help their performance, leveling the academic playing field for all, rather than only for those with a diagnosis, and undercutting any argument that the extra time is unfair. Flagging the grade reports would be a measure of extra time only, rather than a measure of disability, and thus would not be discriminatory.

To be sure, some professors may see time and a half or double time as unreasonable or impractical. In some fields, such as emergency medicine, it would indeed be unreasonable, because speedy completion of a task is of central importance. But that would not be the case in all areas of study. As accommodations rise, this “universal design” solution may be the greatest leveler of the playing field.

Accommodations of LD and ADD students are here to stay as long as there is an Americans with Disabilities Act and Section 504 of the Rehabilitation Act—and as long as there are students who suffer from impediments to learning. Unfortunately, the potential for abuse of LD and ADD diagnoses, as well as the accommodations process, is here to stay as well. Wise administrators would do well to report more fully on their accommodations process and make it more transparent and rigorous. Only that way can any latent perception of unfairness or compromised standards, whether from faculty or students, be done away with. Such openness would be to the benefit of the campus as a whole and disabled students in particular.

Notes

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- ³ *ABC News Nightline*, March 30, 2006; *USA Today*, “Our View on College Testing: Defining the SAT Downward,” March 13, 2009.
- ⁴ U.S. Department of Education, National Center for Education Statistics. Table 47: Children 3 to 21 Years Old Served in Federally Supported Programs for the Disabled, By Type of Disability: Selected Years, 1976 through 2005-06. Online: http://nces.ed.gov/programs/digest/d07/tables/dt07_047.asp. Starting in the late 1990s, the U.S. Department of Education began to make a distinction between the “specific learning disability” and “attention deficit disorder” categories. Where available, this paper shows both. The trend data discussed in this sentence about 1981–2006 do not separate the two.
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- ¹² *USA Today* (2009). “Our View on College Testing: Defining the SAT Downward,” March 13.
- ¹³ *ABC News Nightline*, March 30, 2006; *USA Today*, March 13, 2009.
- ¹⁴ Leong, Nancy (2005). “Beyond Breimhorst: Appropriate Accommodation of Students with Learning Disabilities on the SAT,” *Stanford Law Review* 57(6) at 2135.
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- ¹⁶ Kessler telephone interview, August 6, 2009.
- ¹⁷ See, for example, <http://disabilityservices.unc.edu>.
- ¹⁸ Disability Services, Division of Student Affairs, UNC-Chapel Hill, “Eligibility for Services.” Online: <http://disabilityservices.unc.edu/eligibility/document-guidelines.html>. (Retrieved October 8, 2009).
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- ²⁰ U.S. Department of Education. Section 5—Contexts of Postsecondary Education, in *The Condition of Education* (2003). “Services and Accommodations for Students With Disabilities,” Appendix I (Supplemental Tables), Table 34-1, 160. Online: nces.ed.gov/pubs2003/2003067.pdf.
- ²¹ The UNC-Chapel Hill Office of Learning Disabilities Services, under the umbrella of Disability Services, arranges accommodations. It has not tracked the number of students who actually receive accommodations or are denied accommodations. It has tracked only the number of students who register with the office in order to be eligible for services.
- ²² Kessler telephone interview, August 6, 2009.
- ²³ College Board, *College Bound Seniors State Profile Report*, various years; 1998 is the oldest available online. These reports are found at <http://professionals.collegeboard.com/data-reports-research>.
- ²⁴ The total in 2007 was higher still, at 7 percent.
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- ²⁷ This explanation is very rough and far from legally precise. Indeed, the definition of the “substantially limits” language is at the heart of legal disputes over accommodations under the ADA.

- ²⁸ Kessler telephone interview, August 6, 2009.
- ²⁹ David Cope, mathematics professor and member of the disability review panel, University of Northern Alabama, e-mail correspondence, June 4, 2009.
- ³⁰ Kessler interview, August 6, 2009. Kessler notes that his committee has been in place for only two years, and that it is rare for a college to use a committee to review applicants for services. The move to a committee was not directly related to changes in disabilities policy at UNC, but rather to a reorganization process.
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- ³⁶ Theresa Maitland, coordinator, Academic Success Program for Students with LD & ADHD, UNC-Chapel Hill, telephone interview, June 3, 2009.
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FOR HIGHER EDUCATION POLICY

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Accommodating College Students with Learning Disabilities:

ADD, ADHD, and Dyslexia

Melana Zyla Vickers

The accommodation of college students with moderate learning disabilities is rarely discussed. It operates under a cloak of secrecy, both because of legal privacy rules and because no one on campus wants to appear to criticize the disabled. Yet the number of college students receiving special accommodation is growing dramatically.

This report is about the assistance provided to students with learning disabilities so mild that they may not be visible to others. It is not about severe disabilities such as autism, brain injuries, or visual or hearing impairment.

The author is Melana Zylar Vickers, a widely published columnist who writes editorials on education and public policy for *USA Today*. She is the author of a previous Pope Center report, “An Empty Room of One’s Own,” which analyzed women’s studies’ programs in North Carolina.

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